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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,668	10/12/2006	Peter John Houzege	PC32750	4567
28523	7590	02/18/2010		
PFIZER INC. PATENT DEPARTMENT Bld 114 M/S 114 EASTERN POINT ROAD GROTON, CT 06340				EXAMINER MAUST, TIMOTHY LEWIS
			ART UNIT 3751	PAPER NUMBER
			NOTIFICATION DATE 02/18/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

-IPGSGro@pfizer.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/581,668	<b>Applicant(s)</b> HOUZEGO, PETER JOHN
	<b>Examiner</b> Timothy L. Maust	<b>Art Unit</b> 3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08 December 2009.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-9, 11-13 and 15-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-9, 11-13, 15-21 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/06)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

### **DETAILED ACTION**

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over E. A. Wahl. In view of Ede et al. (7051771).

Claims 1-7, 10, 14 and 16-21 are rejected under 35 U.S.C. 102(b) as being anticipated by E. A. Wahl (2857938)

Regarding claims 1, 20 and 21, the Wahl reference discloses a method of filling with powder (33) a plurality of containers (21) having an open end, the method including: positioning an outlet of a hopper (20) containing powder (33) above the open end of the containers on support (10); mechanically agitating the hopper so as to cause powder to be transferred from the hopper to the container; and mechanically agitating the container; wherein the steps of mechanically agitating are conducted by at least a predetermined amount sufficient to ensure that the container is filled with powder at a predetermined density (see col. 6, lines 27 – 43). Wahl doesn't disclose the mechanical agitation being in the form of tapping. However, the Ede et al. reference discloses another powder dispensing apparatus wherein the powder is aided through the apparatus by tapping or vibrating to ensure full flow of powder (see col. 9, lines 20-28). Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify the Wahl device to have a tapping mechanism in view of the teachings of the Ede et al. reference, which teaches that tapping or vibrating powder dispensers is well known and conventional in the art to ensure a full flow of powder.

For the following claims, refer to Wahl et al.

Regarding claims 2 and 3, see column 6, lines 40-43.

Regarding claim 4-6, the outlet of hopper is adjustable to vary the filling volume of container (21); see col. 8, lines 57-60.

Regarding claim 7, the outlet of the hopper is an orifice.

Regarding claims 17 and 19, the hopper and container, as one super structure, are vibrated at the same time via electro-magnetic vibrator 12, which is cammed (see Figures 24-26).

Regarding claim 16, a powder tight seal is shown in Figure 20.

Regarding claim 18, for density variations see column 15, lines 54-56.

Claims 8, 9, 11-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over E. A. Wahl in view of Ede et al.

Regarding claims 8, 9, 11-13 and 15, the Wahl reference discloses the invention as modified by the Ede et al. (discussed supra), but doesn't disclose an orifice being 0.5mm, mechanical agitation including lifting the hopper and container by 1-10mm, tapping 50-500 times, acceleration of approximately 1000 G and vibrating at a frequency between 100 Hz and 1 kHz. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the above

operational sizes and ranges on the Wahl device, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105

***Response to Arguments***

Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy L. Maust whose telephone number is (571) 272-4891. The examiner can normally be reached on Mon. - Thur. 7:00-5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy L Maust/  
Primary Examiner  
Art Unit 3751

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